

Case No. 08-10263 3

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUSTEES OF THE OPERATING ENGINEERS
LOCAL 324 FRINGE BENEFIT FUNDS,

Plaintiff,

vs.

Case No. 08-10263
Hon. Paul D. Borman

PRECISION DEMOLITION SERVICES, INC.,
a Michigan Corporation, and CARLOS
AVITIA, individually, jointly and severally,

Defendants.

FINKEL WHITEFIELD SELIK
By: Richard M. Selik (P-24276)
And: Stephen D. Kursman (P37902)
Attorneys for Plaintiff
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SCHAFFER AND WEINER, PLLC
By: Howard S. Borin (P51959)
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FILED
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U.S. DISTRICT COURT
EAST. DIST. MICHIGAN
DETROIT

CONSENT JUDGMENT

At a session of said Court, held in the
United States District Court, City of Detroit
State of Michigan

on 7-2, 2008

PRESENT: HON. _____

PAUL D. BORMAN

The parties having so stipulated:

IT IS ORDERED that Plaintiffs Trustees of the Operating Engineers Local 324 Fringe Benefit Funds have final judgment against Precision Demolition Services, Inc. and Carlos Avitia, individually, jointly and severally, in the amount of \$32,007.06, together with all additional amounts found owing by final audit for the months of February through June, 2008.

IT IS FURTHER ORDERED that this final audit shall take place on a mutually agreeable date between July 1, 2008 and July 7, 2008.

IT IS FURTHER ORDERED that against this Consent Judgment, and subject to final clearance by all concerned banks, defendants shall be given credit for a payment made on or about June 16, 2008 in the amount of \$9,190.15, and for a second payment in the amount of \$10,000.00 to be made on Monday June 23, 2008.

IT IS FURTHER ORDERED that no execution shall take place against this judgment for thirty days, but that upon expiration of this period, execution is proper against the full outstanding amount of the judgment then remaining due, expressly including the amount found due by final audit.

IT IS FURTHER ORDERED that this judgment against individual defendant Carlos Avitia ("Avitia") is not based on the Michigan Builders Trust Fund Act, M.C.L. §§ 570.151-53 ("Builders Trust").


IT IS FURTHER ORDERED that this judgment is without prejudice to the rights of plaintiff to pursue Builders Trust liability against Avitia in any future bankruptcy filing, should it occur, and that this judgment is also without prejudice to the rights of Avitia to assert all defenses he may have to Builders Trust liability in any future bankruptcy filing.

IT IS FURTHER ORDERED that defendant Precision Demolition Services, Inc. shall complete and forward to Plaintiff and to counsel for Plaintiff, its fringe benefit report for the month of May, 2008 on June 23, 2008.

IT IS FURTHER ORDERED that Defendant Precision Demolition Services, Inc. shall complete and forward to Plaintiff and to counsel for Plaintiff, its fringe benefit report for the month of June, 2008, on or before July 7, 2008.

IT IS FURTHER ORDERED that on June 23, 2008, Precision Demolition Services, Inc. shall send letters to all general contractors with whom it is doing business directing that all future payments owed to Precision Demolition Services, Inc. shall be made payable jointly to Plaintiff Trustees of the Operating Engineers Local 324 Fringe Benefit Funds and to Precision Demolition Services, Inc.

IT IS FURTHER ORDERED that these joint checks shall be promptly forwarded to Plaintiff's counsel, Finkel Whitefield Selik, attention Stephen Kursman, who shall notify Defendant's counsel that the checks have been received, so that the parties may arrange for endorsement and deposit of the joint checks so that the outstanding fringe benefits and liquidated damages which are the basis of this Consent Judgment shall be promptly paid.


U. S. District Court Judge

I AGREE TO THE ENTRY OF THIS CONSENT JUDGMENT

Precision Demolition Services, Inc.

/s/ Carlos Avitia
By Carlos Avitia, its President

/s/ Carlos Avitia
Carlos Avitia, individually

I stipulate to entry of the above order:

/s/ Stephen D. Kursman
Stephen D. Kursman (P37902)
counsel for Plaintiff

/s/ Howard S. Borin
Howard S. Borin (P51959)
counsel for defendant

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